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MINERAL LAND TAX ACT

[RSBC 1996] CHAPTER 290

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Definitions

1 In this Act:

"administrator" means the Assessor of Mineral Land Tax appointed under this Act or other person designated in writing by the minister for the purposes of this Act;

"Crown land" means Crown land as defined in the Land Act;

"designated mineral" means any mineral that is designated by order of the administrator;

"freehold mineral interest" means the estate or interest of a person, other than the government, in a mineral on or below the surface of mineral land whether or not that estate or interest is registered as a charge against the title of that land;

"mineral" means any nonliving substance formed by the processes of nature that occurs in, on or under land, of any chemical or physical state, but does not include soil, earth, stone used for building or construction, limestone, dolomite, marble, shale, clay, sand, gravel, volcanic ash, diatomaceous earth, marl, peat, surface water and ground water;

"mineral land" means land, other than Crown land and land comprising a right of way, station ground, yard or terminal of a railway, in respect of which

(a) a mineral is, or may be, located, or

(b) a person has the right to work, win or carry away a mineral;

"minister" includes a person designated in writing by the minister;

"owner" includes a person who has the right to work, win or carry away minerals from mineral land;

"parcel" means a parcel as defined in the Land Title Act;

"production area" means a portion of British Columbia designated by order of the administrator under section 2 to be a production area.

Designation of production area

2 (1) The administrator may, by order, designate mineral land to be a production area for the purposes of this Act.

(2) Despite the definition of mineral land, the administrator may include in a production area land comprising a right of way, station ground, yard or terminal of a railway.

(3) In an order under subsection (1) or in any subsequent order, the administrator may designate a mineral as being deemed to be contained or to have been contained in a production area and then the designated mineral is deemed to be contained or to have been contained in, on or under mineral land located in that production area.

Mineral land tax

3 (1) Not later than July 2 in every year, an owner of mineral land must pay to the minister a tax at one of the following rates:

(a) \$1.25 per ha if the owner's total mineral land comprises 20 235 ha or less;

(b) \$1.98 per ha if the owner's total mineral land comprises more than 20 235 ha but not more than 40 470 ha;

(c) \$2.70 per ha if the owner's total mineral land comprises more than 40 470 ha but not more than 101 171 ha;

(d) \$3.46 per ha if the owner's total mineral land comprises more than 101 171 ha but not more than 202 343 ha;

(e) \$4.20 per ha if the owner's total mineral land comprises more than 202 343 ha but not more than 404 686 ha;

(f) \$4.94 per ha if the owner's total mineral land comprises more than 404 686 ha.

(2) No tax is payable under this Act if the mineral land

(a) has an area less than 16.2 ha, or

(b) is owned by a charity that has been registered under the Income Tax Act (Canada).

(3) If an owner's mineral land is used for agricultural purposes, the owner may apply to the administrator to have that land classified as agricultural mineral land.

(4) Neither subsection (2) nor subsection (3) applies if

(a) the land is used for the exploration, development or production of minerals,

(b) the land is in a production area, or

(c) the only interest that the owner has in the land is a freehold mineral interest.

(5) The administrator must classify the land as agricultural mineral land if the administrator is satisfied that the land meets the prescribed standards for agricultural mineral land.

(6) Land classified as agricultural mineral land must be assessed under this Act but no tax is payable for it for so long as it continues to qualify as agricultural mineral land.

(7) An owner of mineral land classified as agricultural mineral land whose mineral land no longer meets the prescribed standards for agricultural mineral land must notify the administrator not later than April 1 of the calendar year following the calendar year in which the land ceased to meet those standards.

Nisga'a exemption

3.1 (1) In this section, "Taxation Agreement" has the same meaning as in section 6.1 of the Nisga'a Final Agreement Act.

(2) Despite section 3, a person is not subject to tax under this Act if and to the extent that the Taxation Agreement provides that the person is not subject to tax under this Act.

Treaty first nation exemption

3.2 (1) [Repealed 2011-11-60.]

(2) Despite section 3, a person is not subject to tax under this Act if and to the extent that a tax treatment agreement provides that the person is not subject to tax under this Act.

Mineral land tax in production area

4 (1) Not later than July 2 in every year, an owner of a production area must pay to the minister a tax at the rate of \$4.94 per ha for each hectare of the owner's production area.

(2) If tax is payable under this section, no tax is payable under section 3 on the same land.

Assessment of mineral land

5 (1) Not later than May 1 in every year, the administrator must prepare a mineral land tax assessment roll containing the information the minister may specify.

(2) In preparing the mineral land tax assessment roll, the administrator may

(a) in accordance with the regulations, group parcels, and

(b) take the steps and use the sources of information the administrator considers necessary.

(3) The administrator must determine the value of production areas in accordance with the regulations.

(4) Not later than May 1 in every year, the administrator must send, to every owner who is shown on the mineral land tax assessment roll,

(a) by mail, or

(b) with the written agreement of the owner, by another form of delivery,

a notice of mineral land tax assessment containing the information that is in the mineral land tax assessment roll regarding the parcel being taxed.

(4.1) Despite subsection (4), the administrator may decline to send a notice of mineral land tax assessment to an owner if the mineral land tax levied in the year in respect of the parcel is less than the prescribed amount.

(5) On the sending of the notice under subsection (4), mineral land tax is deemed to have been assessed and levied.

(6) [Repealed 2004-40-36.]

Information for assessment

6 (1) Within 21 days after receiving the question or demand, the following persons must, to the best of their knowledge and ability, answer a question asked and supply information demanded by the administrator for the purpose of making an assessment under this Act:

(a) an owner with respect to mineral land;

(b) a person who, in the opinion of the administrator, is an owner with respect to mineral land.

(2) The administrator is not bound by an answer or information given to the administrator under this section.

(3) A person having the custody or control of a return, form, answer or other information filed or given under this section or collected under section 7 must not

(a) communicate or allow to be communicated, to any person not legally entitled to it, information obtained under this section or collected under section 7, or

(b) allow a person not legally entitled to inspect or have access to a return, form or answer given or made under this section or collected under section 7.

(4) Within 60 days after the occurrence an owner of mineral land must notify the administrator of

(a) a sale, transfer, assignment or other disposition of an interest in that owner's mineral land, and

(b) a change in that owner's mailing address.

Inspection for purposes of Act

7 (1) An owner must keep adequate books and records for the purposes of this Act.

(2) If, in the opinion of the administrator, the books or records kept by an owner are inadequate for the purposes of this Act, the administrator may specify the books and records to be kept by that owner.

(3) A person authorized in writing by the minister for a purpose relating to the administration and enforcement of this Act may do any or all of the following:

(a) at reasonable times, enter any land, premises or place and inspect and examine property, including books, records, writings or other documents kept there;

(b) require the owner, occupier or person in charge of the land, premises or place to give the authorized person all reasonable assistance in connection with the inspection or examination and to answer all proper questions relating to the inspection or examination;

- (c) require the owner, occupier or person in charge of the land, premises or place to attend at the land, premises or place with the authorized person;
- (d) if, during the course of an inspection or examination it appears to the authorized person that an offence under this Act has been or is being committed, seize and take away books, records, writings or other documents and retain them until their production in a court proceeding is required.

Liability for tax

8 (1) Not later than July 2 in the year that an owner receives a notice of mineral land tax assessment under section 5 (4), the owner must pay to the minister the amount of mineral land tax levied in the notice.

(2) [Repealed 2004-40-37.]

- (3) If mineral land is owned by more than one owner, the owners are jointly liable for the mineral land tax.
- (4) Despite sections 3 and 4, an owner is not liable to pay taxes imposed for a year if the administrator has declined under section 5 (4.1) to send a notice of mineral land tax assessment to the owner in respect of the taxes payable for the year.

Delinquent taxes

9 Mineral land tax levied under this Act and not paid on or before July 31 in the year that it is levied is delinquent.

Tax forms lien and charge

10 (1) Mineral land tax assessed and levied under this Act

- (a) forms a lien and charge in favour of the government on all minerals and mineral land owned by the owner who is liable to pay the tax, and
 - (b) has priority over all other claims, except claims secured by registered liens, charges or encumbrances on the minerals or mineral land.
- (2) A lien and charge created by this section and its priority is not lost or impaired by
- (a) neglect, omission or error of the administrator,
 - (b) the taking or failure to take proceedings to recover mineral land tax that is not paid, or
 - (c) the tender or acceptance of any partial payment of mineral land tax.

Certificate of delinquent taxes

11 (1) If mineral land tax or any portion of mineral land tax is delinquent, the administrator may issue a certificate stating that the tax is delinquent, the amount of it that is unpaid, including interest, and the name of the person liable to pay it.

(2) The administrator may do either or both of the following:

- (a) file the certificate with the Supreme Court and, on filing the certificate has the same effect and all proceedings may be taken on it as if it were a judgment of the court for the recovery of a debt of the amount stated in the certificate against the owner named in it;
 - (b) issue a warrant to a person for the purpose of levying the amount of mineral land tax stated in the certificate, with costs, by distress of the goods and chattels of the owner liable to pay the mineral land tax or of any goods and chattels in the owner's possession, wherever they may be found in British Columbia or of any goods and chattels found on the owner's premises or in the possession of any other occupant of the premises and that would be subject to distress for arrears of rent due to a landlord.
- (3) The costs chargeable for distress under subsection (2) (b) are those payable as between landlord and tenant.
- (4) If the property distrained is sold for more than the amount of the mineral land tax, interest and costs and if no claim to the surplus is made by any other person on the ground that the property sold belonged to that person or that that person was entitled by lien or other right to the surplus, the surplus must be paid over to the owner who was liable to pay the delinquent mineral land tax.
- (5) If a claim for a surplus is made by a person other than the owner for whose mineral land tax the property was distrained and the claim is admitted by the owner, the surplus must be paid to that other person and that person's receipt must be taken for it.
- (6) If a claim for a surplus is contested, the administrator must retain the surplus until the rights of the parties are determined.

Recovery of taxes

12 If

- (a) mineral land tax is levied but not paid, and
- (b) a mineral is severed from the mineral land for which the mineral land tax is levied and unpaid, the amount of the unpaid mineral land tax may be recovered in a court as a debt due to the government and the court may make an order as to costs of an action in favour of or against the government as it considers appropriate.

Forfeiture

13 (1) If mineral land tax assessed and levied under this Act remains unpaid on August 1 in the year following the year that it was levied,

- (a) a penalty of \$50 must be added, and the penalty is deemed to form part of the unpaid tax, and
 - (b) the minerals and the right to work, win or carry away the minerals located in, under or on the mineral land for which the mineral land tax is not paid becomes subject to forfeiture.
- (2) If minerals and the right to work, win or carry away minerals are subject to forfeiture under subsection (1), the administrator must publish in the Gazette a notice containing the following:
- (a) the name and address of
 - (i) every owner whose name appears in the mineral land tax assessment roll as an owner of the minerals and the right to work, win or carry away the minerals, and
 - (ii) every person who has a registered claim or title to or charge on the minerals and the right to work, win or carry away the minerals;
 - (b) a brief description of the mineral land for which the mineral land tax was levied and remains unpaid;
 - (c) the amount of the assessment and the amount of the unpaid mineral land tax;
 - (d) a statement that, unless the unpaid mineral land taxes, together with any interest, are paid within 90 days from the date the notice is published in the Gazette, the minerals and the right to work, win and carry away the minerals, are forfeited to the government.
- (3) The administrator must serve the notice, by registered mail, on every person named in the notice published under subsection (2) (a).
- (4) If the amount of unpaid taxes specified in a notice under subsection (2) is not paid within 90 days from the date the notice is published in the Gazette, the minerals and the right to work, win or carry away the minerals located in, under or on the mineral land for which the mineral land tax is not paid, is absolutely forfeited to and vested in the government free and clear of all encumbrances.
- (5) The administrator must then issue a certificate of forfeiture in a form established by the minister and file it in the appropriate land title office.
- (6) If a certificate of forfeiture is issued under subsection (5), the administrator must cancel all taxes and interest due with respect to the minerals vested in the government.
- (7) A forfeiture under this Act is deemed not to be a forfeiture under the Escheat Act.
- (8) If the administrator considers that a forfeiture under this section has occurred through the inadvertence or mistake of any person, the Lieutenant Governor in Council may, subject to payment of all unpaid taxes, grant to the former owner the interest in the minerals and the right to work, win or carry them away that had forfeited to the government under this section.
- (9) The Lieutenant Governor in Council must not make a grant under subsection (8) if, after the date a certificate of forfeiture has been filed in a land title office under subsection (5), a person has
- (a) located or acquired a claim under the Mineral Tenure Act,
 - (b) been issued a licence under section 12 of the Coal Act, or
 - (c) been issued a permit, drilling licence or lease under the Petroleum and Natural Gas Act,
- relating to rights that the former owner had in the minerals and the right to work, win or carry them away.

Demand on third parties

14 (1) If the administrator has knowledge or suspects that a person is or is about to become indebted to an owner who is liable to pay mineral land tax under this Act, the administrator may demand of that person that all or part of the money otherwise payable by that person to the owner be paid over to the administrator on account of the owner's liability under this Act and that person must immediately pay the money to the administrator.

- (2) The receipt of the administrator for money paid by a person under subsection (1) discharges the person's liability to the owner to the extent of the amount referred to in the receipt.

(3) A person discharging a liability to an owner after receiving a demand under this section is personally liable to the government to the extent of

(a) the liability discharged as between the person and the owner, or

(b) the liability of the owner for taxes, interest and penalty,

whichever is the lesser amount.

Exercise of powers

15 The powers conferred by this Act for the recovery and collection of mineral land tax, the forfeiture of minerals or the prohibition of mining operations may be exercised separately, concurrently or cumulatively, and the liability of an owner for the payment of mineral land tax under this Act is not affected by the fact that a fine or penalty has been imposed on or paid by the owner or by the fact that an order has been made under section 13, for a contravention of this Act.

Overpayment

16 (1) If it appears to the minister that tax has been overpaid by an owner, the minister must, on the certificate of the administrator, refund the overpaid amount to the owner from the consolidated revenue fund.

(2) If any further mineral land tax payable by that owner has been levied, the overpaid amount must, to that extent, be applied in satisfaction of the mineral land tax and notice must be given to the owner accompanied by the refund of any remainder of the overpaid amount remaining unapplied.

(3) A refund under this section may be made with the notice of assessment or after giving the notice of assessment.

Interest on unpaid taxes

17 Mineral land tax that is unpaid on July 31 of the year in which it was levied bears interest after that date until paid, at an annual rate prescribed by the Lieutenant Governor in Council, and all interest accrued is deemed to form part of the unpaid tax.

Surrender of interest in mineral land

18 Subject to the conditions the Lieutenant Governor in Council may prescribe, an owner may surrender all or part of an interest in mineral land to the government.

Staff and employees

19 An assessor of mineral land tax, and other employees required for the purposes of this Act, may be appointed under the Public Service Act.

Offence and penalty

20 (1) A person who knowingly or wilfully does any of the following commits an offence:

(a) makes or participates in, assents to or acquiesces in the making of a false or deceptive statement in a return, information, report or answer delivered or made by the person as required under this Act;

(b) to evade payment of mineral land tax under this Act, destroys, alters, mutilates, secretes or otherwise disposes of a record, book or account required to be maintained under this Act;

(c) omits or participates in, assents to or acquiesces in the omission to enter material information in a record, book or account required to be maintained under this Act.

(2) A person who commits an offence under subsection (1) is liable, on conviction, to a fine of not less than \$500 and not more than \$5 000.

(3) A person who refuses or neglects to do any of the following commits an offence:

(a) to answer a question or provide information to the best of the person's knowledge and ability immediately after the person is required to do so under this Act;

(b) to provide the administrator or any other person authorized by the minister under section 7 with access and reasonable assistance to examine, inspect and take extracts from a record, book or account required to be maintained under this Act;

(c) to attend with and answer questions asked by the administrator or other person authorized by the minister under section 7 to examine, inspect and take extracts from a record, book or account required to be maintained under this Act.

(4) A person who commits an offence under subsection (3) is liable, on conviction, to a fine of \$50 for every day that the offence is committed.

(5) If a corporation commits an offence under this Act, an officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced or participated in the commission of the offence is, whether or not the corporation is prosecuted for the offence, a party to and commits the offence, but this subsection does not affect the liability of the corporation for the same offence.

(6) An information for an offence under this Act must not be laid after 12 months from the time the matter of the offence came to the attention of the administrator.

Power to make regulations

21 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by regulation;

(b) prescribing rules, guidelines, criteria and valuation factors to be used for the purpose of making assessments under this Act;

(c) defining expressions used, but not defined, in this Act;

(d) extending or changing a time or deadline that is provided for in this Act;

(e) prescribing the nature of the evidence required to establish facts relevant to assessments of mineral land under this Act;

(f) prescribing procedures to be followed for

(i) supplementary mineral land assessment and taxes,

(ii) correcting errors in mineral land assessment and tax levies, and

(iii) serving notices of mineral land assessment, tax levies and other documents required to be served or mailed under this Act on or to persons who cannot be located;

(g) prescribing terms and conditions subject to which all or part of an interest in mineral land may be surrendered under section 18.

Forms

22 The minister may, by order,

(a) establish a form that is, under this Act, required to be established, and

(b) establish a procedural rule pertaining to the use of a form required to be used under this Act.

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